

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JUAN NUNEZ, a/k/a Johnny,  
vs  
Petitioner,

UNITED STATES OF AMERICA,  
Respondent.

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U. S. DISTRICT COURT  
N. D. OF N. Y.  
FILED

MAY 10 2005

AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M  
LAWRENCE K. BAERMAN, Clerk  
UTICA

1:04-CV-887

APPEARANCES:

JUAN NUNEZ  
10032-052  
Petitioner, Pro Se  
FCI Allenwood  
P.O. Box 2500  
White Deer, PA 17887

HON. GLENN T. SUDDABY  
United States Attorney  
Attorney for Respondent  
Northern District of New York  
P. O. Box 7198  
100 South Clinton Street  
Syracuse, New York 13261-5165

DAVID N. HURD  
United States District Judge

OF COUNSEL:

PAUL D. SILVER, ESQ.  
Assistant U.S. Attorney

**ORDER**

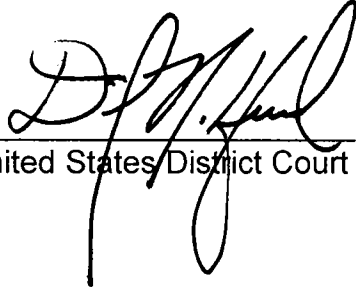
Petitioner filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. (Docket No. 1). Petitioner filed an amended and supplemental brief. (Docket No. 7). The Government filed a Memorandum of Law in opposition. (Docket No. 15). Petitioner filed a Traverse. (Docket No. 17). The Government filed a letter withdrawing its

procedural objections to the petitioner. (Docket No. 18). Petitioner filed an addendum in support of traverse. (Docket No. 19).

The recent Supreme Court cases regarding sentencing are not retroactive to cases upon collateral review. The petitioner's ineffective assistance of counsel claim has no merit.

Therefore, the petition is DISMISSED and the Clerk is directed to close the file.

IT IS SO ORDERED.

  
United States District Court

Dated: May 3, 2005  
Utica, New York.